



*Worldwide Intellectual Property Matters • Patents • Trademarks
Litigation • Copyrights • U.S. and Foreign Portfolio Management
Computer and Internet Law • Trade Secrets • Unfair Competition*

RECEIVED
CENTRAL FAX CENTER

MAY 22 2007

To: Commissioner for Patents From: Steven L. Nichols
Fax: (571) 273-8300 Pages: 36 pages including coversheet
Phone: Date: May 22, 2007
Re: Application No. — 10/021,267

☒ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable laws. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return original message to us at the above address via U.S. Postal Service.
Thank you.

Transmitted, herewith, are the following documents:

1. Fax Cover Sheet (1 page)
2. Transmittal of Reply Brief with Duplicate copy (2 pages)
3. Certificate of Transmission (1 page)
4. Reply Brief (5 pages)
5. Supplemental Appeal Brief (27 pages)

T8263.DIV

Serial No.: 10/021,267

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
MAY 22 2007

In re Patent Application: Dale S. Cheney

Examiner: MAI, Tri M.

Application No.: 10/021,267

Group Art Unit: 3781

Filed: October 29, 2001

Confirmation No.: 9637

Title: "Vehicle Storage Box with Single Hinged
Double Secured Compartments and
Dual Actuating Cam Latches"Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on
March 22, 2007.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 18-0013.

(X) I hereby certify that this paper is being
transmitted to the Patent and Trademark
Office facsimile number (571) 273-8300
on May 22, 2007Number of pages: 36Signature: 

Rebecca R. Schow

Respectfully submitted,

By: Steven L. Nichols (Reg. No.: 40,326)
Attorney/Agent for Applicant(s)
Telephone No.: (801) 572-8066
Date: May 22, 2007

T8263.DIV

DUPLICATE

Serial No.: 10/021,267

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

MAY 22 2007

In re Patent Application: Dale S. Cheney

Examiner: MAI, Tri M.

Application No.: 10/021,267

Group Art Unit: 3781

Filed: October 29, 2001

Confirmation No.: 9837

Title: "Vehicle Storage Box with Single Hinged
Double Secured Compartments and
Dual Actuating Cam Latches"Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on
March 22, 2007.


This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 18-0013.

(X) I hereby certify that this paper is being
transmitted to the Patent and Trademark
Office facsimile number (571) 273-8300
on May 22, 2007
Number of pages: 36Signature: 
Rebecca R. Schow

Respectfully submitted,

By: Steven L. Nichols (Reg. No.: 40,326)
Attorney/Agent for Applicant(s)
Telephone No.: (801) 572-8068
Date: May 22, 2007

RECEIVED
CENTRAL FAX CENTER

MAY 22 2007

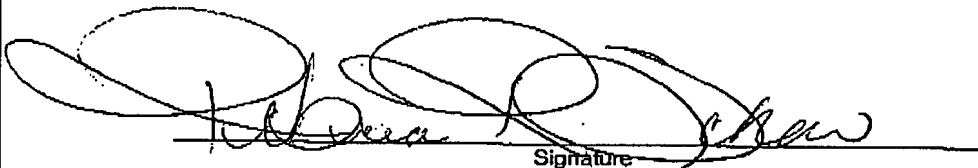
Application No.: 10/021,267

Attorney Docket No.: T8263.DIV

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents via the USPTO central facsimile number, (571) 273-8300.

on May 22, 2007
Date



Signature

Rebecca R. Schow

Typed or printed name of person signing Certificate

Transmitted, herewith, are the following documents:

1. Fax Cover Sheet (1 page)
2. Transmittal of Reply Brief with Duplicate copy (2 pages)
3. Certificate of Transmission (1 page)
4. Reply Brief (5 pages)
5. Supplemental Appeal Brief (27 pages)

Dale Cheney

10/021,267

RECEIVED
CENTRAL FAX CENTER

MAY 22 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent Application of

Dale S. Cheney

Application No. 10/021,267

Filed: October 29, 2001

For: Vehicle Storage Box with Single
Hinged Double Secured Compartments
and Dual Actuating Cam Latches

Group Art Unit: 3781

Examiner: MAJ, Tri M.

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Reply Brief under Rule 41.41 (37 C.F.R.) in response to the Examiner's Answer of March 22, 2007 (the "Examiner's Answer" or the "Answer"). In Section 10, the Answer contains a response to some of the arguments made in Appellant's brief. Appellant now responds to the Examiner's Answer as follows.

Dale Cheney

10/021,267

Independent claim 53 recites:

A vehicle storage box, comprising:
a base structure;
a lid, pivotally connected to the base structure; and
a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.*
(emphasis added).

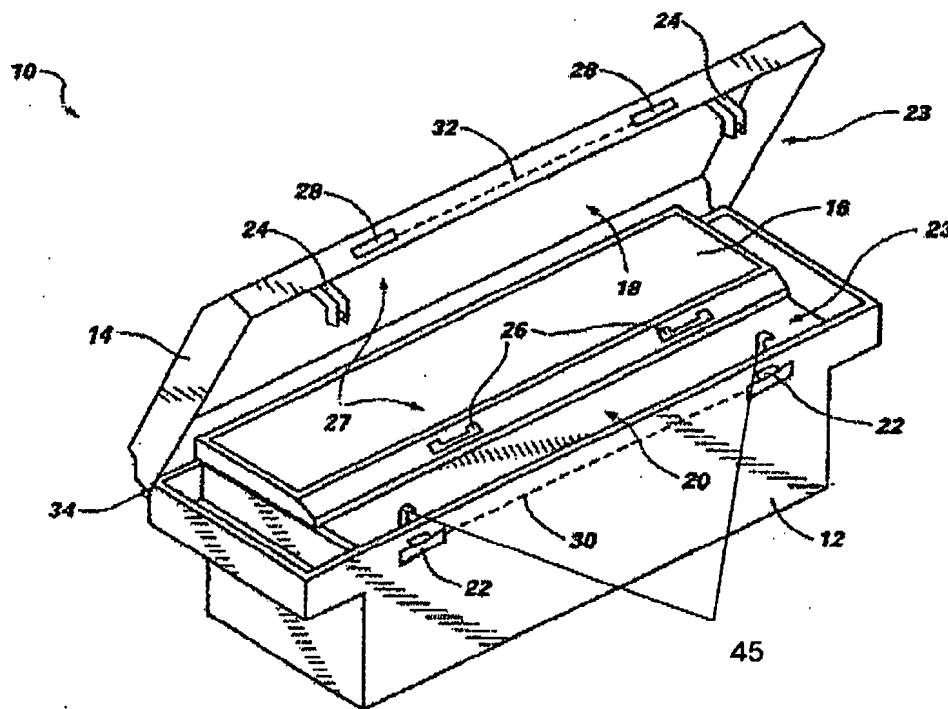
Appellant has previously noted the significant advantage provided by the claimed lid coupler to engage the lid of the box while the lid is still in an opened position, i.e., before the lid is fully closed. The lid coupler is then further actuated to draw the lid fully closed and then to secure or lock the lid shut.

According to Appellant's specification, "[l]id actuator 22 is constructed to rotate substantially 180 degrees about bolt 36. The need to rotate substantially 180 degrees is a function of hooking cam 45. *To enable the user to hook lid latch 24 while lid 14 is still in an opened position*, and to then rotate lid actuator 22 to its final position wherein lid latch 24 completely tracks [within] cam 47 pulling lid 14 *to a closed and secured position.*" (Appellant's specification, paragraph 0039) (emphasis added).

These features are plainly shown in Appellant's figures. Fig. 1 is reproduced below with the addition of reference number (45).

Dale Cheney

10/021,267

**Fig. 1**

As seen in Fig. 1, the lid (14) includes latches (24) that extend below the lid (14). The lid coupler (23) includes hooks or hooking cams (45) aligned with the latches (24). As explained in Appellant's specification, and as is clear from the figures, the hooking cams (45) can engage the latches (24) of the lid (14) before the lid is closed and then pull the lid fully closed.

In contrast, there is no prior art reference of record that teaches or suggests the claimed lid coupler that engages the lid while the lid is in an opened position. Moreover, there is no prior art reference of record that teaches structure which would make such a feature possible.

The Examiner's Answer incorrectly argues that "[s]imilar to applicant's invention as claimed. [sic] These container [sic] may be partially open and the rotating force would applied

Dale Cheney

10/021,267

[sic] to draw the two parts of the container together.” (Answer, p. 7). However, the Examiner’s Answer gives no support and cites no reference for this assertion. The Examiner has utterly failed to cite prior art that actually includes a lid coupler, like that claimed, that engages the lid when the lid is in an opened position.

The balance of the arguments made by the Examiner consist of speculation regarding the references cited that the various mechanisms shown could operate as does Appellant’s claimed box with the lid coupler engaging the lid while the lid is still in an opened position. These arguments are unsupported by any actual teaching or suggestion in the references and consist entirely of the Examiner attempting, sometimes unreasonably, to interpret the figures of the various prior art references in such a way that would equate with Appellant’s claims. This is clearly insufficient to support a rejection of Appellant’s claims.

As detailed in Appellant’s brief, an impartial review of the cited prior art will clearly show that the various references cite teach lid couplers that only operate to secure the lid when the lid is in a closed position.

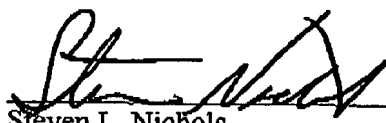
Dale Cheney

10/021,287

In view of the foregoing, it is submitted that the final rejection of the pending claims is improper and should not be sustained. Therefore, a reversal of the Rejection of July 19, 2006 is respectfully requested.

Respectfully submitted,

DATE: May 22, 2007


Steven L. Nichols
Registration No. 40,326

Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095
(801) 572-8066
(801) 572-7666 (fax)

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the Patent & Trademark Office facsimile number 571-273-8300 on May 22, 2007. Number of Pages: 36


Rebecca R. Schow

Dale Cheney

10/021,267
RECEIVED
CENTRAL FAX CENTER
MAY 22 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent Application of

Dale S. Cheney

Application No. 10/021,267

Filed: October 29, 2001

For: Vehicle Storage Box with Single
Hinged Double Secured Compartments
and Dual Actuating Cam Latches

Group Art Unit: 3781

Examiner: MAI, Tri M.

SUPPLEMENTAL APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief under Rule 41.37 appealing the decision of the Primary Examiner dated July 19, 2006. Each of the topics required by Rule 41.37 is presented herewith and is labeled appropriately.

Dale Cheney

10/021,267

I. Real Party in Interest

At present, no assignment for this application has been recorded. Therefore, Dale S. Cheney is the real party in interest.

However, the inventor and Appellant is a principal of West Deseret, LLC of Utah ("West Desert"). West Desert is expected to market the subject matter described in the present application and may acquire an interest in, or ownership of, this patent application. Therefore, West Desert may be considered a Party in Interest.

II. Related Appeals and Interferences

There are no appeals or interferences related to the present application of which the Appellants are aware.

III. Status of Claims

Claims 1-26, 31-33 and 37 and have been cancelled previously without prejudice or disclaimer. Claims 27-30, 34-36 and 38-53 are currently pending for further action. Claims 29, 40-42 and 50-52 have been designated as containing allowable subject matter. Claims 27, 28, 30, 34-36, 38, 39, 43-49 and 53 stand finally rejected. Accordingly, Appellant appeals from the rejection of claims 27, 28, 30, 34-36, 38, 39, 43-49 and 53, which claims are presented in the Appendix.

Dale Cheney

10/021,267

IV. Status of Amendments

Appellant filed one after-final response subsequent to the final Office Action of July 19, 2006. However, that response proposed no amendment to the application. Consequently, its entry into the record has no effect on the present appeal.

V. Summary of Claimed Subject Matter

In the present application, Appellant claims a vehicle storage box. One significant advantage of Appellant's box is the ability of its lid coupler to engage the lid of the box while the lid is still in an opened position, i.e., before the lid is fully closed. As explained in Appellant's specification, "[l]id actuator 22 is constructed to rotate substantially 180 degrees about bolt 36. The need to rotate substantially 180 degrees is a function of hooking cam 45. *To enable the user to hook lid latch 24 while lid 14 is still in an opened position*, and to then rotate lid actuator 22 to its final position wherein lid latch 24 completely tracks [within] cam 47 pulling lid 14 *to a closed and secured position.*" (Appellant's specification, paragraph 0039) (emphasis added). Thus, as defined in Appellant's specification, an "opened position" includes a position in which the lid is not fully closed, but is within reach of the hooking cam 45 which then hooks lid latch 24 to track the lid to "a closed and secured position." (Appellant's specification, paragraph 0039).

Turning to specific claims, claim 27 recites:

A vehicle storage box (10), comprising:

a) a base structure (12);

Dale Cheney

10/021,267

b) a lid (14), pivotally connected to the base structure (12), shaped to enclose the base structure (12); and

c) a lid coupler (23) comprising a first and second adjustable lid actuator (22) and a first and second adjustable lid latch (24), connected to the lid (14) and the base structure (12), shaped to releasably couple the lid (14) to the base structure (12), the lid coupler (23) having a first coupling position occurring when the lid (14) is in an opened position (*Appellant's specification, paragraph 0036*);

d) the lid actuator (22) including a hooking cam (45) to engage the lid latch (24) while the lid (14) is in an opened position (*Appellant's specification, paragraph 0035*) such that, as the lid actuator (22) is rotated, the lid latch (24) tracks along the hooking cam (45) of the lid actuator (22) while the lid (14) is pulled down; and

e) the first and second lid actuators (22) being coupled together by a cable and pulley system wherein a pulley (40) is coupled to each of the lid actuators (22) and connected by a cable (30) for simultaneous operation of the first and second lid actuators (22) (*Appellant's specification, paragraph 0037*).

Claim 35 recites:

A storage box (10) for use with vehicles comprising:

a) a base structure (12);

b) a lid (14), pivotally connected to the base structure (12), shaped to enclose a portion of

the base structure (12); and

c) lid coupling means, connected to the lid (14) and the base structure (12), for releasably coupling the lid (14) to the base structure (12), and having a first coupling position occurring when the lid (14) is in an opened position (*Appellant's specification, paragraph 0036*); and

d) the lid coupling means including a lid latch (24) coupled to the lid (14), and means, rotatably coupled to the base structure (12), for engaging and latching the lid latch (24) while in the first coupling position (*Appellant's specification, paragraph 0037*); and

Dale Cheney

10/021,267

e) the means for engaging and latching the lid latch (24) including a hooking cam (45) for facilitating closing and securing the lid (14) to the base structure (12), the hooking cam (45) on a lid actuator (22) engages the lid latch (24) while the lid (14) is in an opened position such that, as the lid actuator (22) is rotated, the lid latch (24) tracks along the hooking cam (45) of the lid actuator (22) wherein the lid (14) is pulled down, the lid (14) being securely closed upon complete travel of the lid latch (24) along the hooking cam (45); wherein the lid actuator (22) rotates substantially 180 degrees along the hooking cam (45) such that the lid latch (24) is forced through cam action motion (*Appellant's specification, paragraph 0037*).

Claim 43 recites:

A vehicle storage box (10), comprising:

a) a base structure (12);

b) a lid (14), pivotally connected to the base structure (12), shaped to enclose the base structure; and

c) a lid coupler (23), connected to the lid (14) and the base structure (12), shaped to releasably couple the lid (14) to the base structure (12), the lid coupler (23) having a first coupling position occurring when the lid (14) is in an opened position (*Appellant's specification, paragraph 0035*), the lid coupler (23) including an adjustable lid actuator (22) and an adjustable lid latch (24), each rotatable in a common plane substantially parallel to a front of the base structure (12) (*Appellant's specification, paragraph 0037*).

I Claim 53 recites:

A vehicle storage box (10), comprising:

a base structure (12);

a lid (14), pivotally connected to the base structure (12); and

a lid coupler (23) (*Appellant's specification, paragraph 0036*) configured to releasably couple the lid (14) to the base structure (12), the lid coupler (23) having a first

Dale Cheney

10/021,267

coupling position in which the lid coupler (23) engages the lid (14) when the lid (14) is in an opened position (*Appellant's specification, paragraph 0035*).

VI. Grounds of Rejection to be Reviewed on Appeal

In the final rejection of July 19, 2006, the following grounds of rejection were raised.

- (1) Claims 27, 28, 30, 34 and 53 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,363,226 to Remington et al. ("Remington").
- (2) Claims 35 and 36 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 1,155,447 to Saunders ("Sanders").
- (3) Claim 53 was further rejected under 35 U.S.C. § 102(b) as anticipated by any one of three other prior art references: (1) U.S. Patent No. 532,067 to Howe ("Howe"), (2) U.S. Patent No. 2,708,302 to Wilkirson ("Wilkirson") or (3) U.S. Patent No. Re 16,643 to Luce ("Luce").
- (4) Claims 35, 36, 38, 39, 43-49 and 53 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 460,437 to Grove ("Grove").
- (5) Claim 49 was rejected under 35 U.S.C. § 103(a) over the combined teachings of Grove and Howe.

Accordingly, Appellant respectfully requests review of these grounds of rejection in this appeal.

Dale Cheney

10/021,267

VII. Argument

In the present application, Appellant claims a vehicle storage box. One significant advantage of Appellant's box is the ability of its lid coupler to engage the lid of the box while the lid is still in an opened position, i.e., before the lid is fully closed. As explained in Appellant's specification, "[l]id actuator 22 is constructed to rotate substantially 180 degrees about bolt 36. The need to rotate substantially 180 degrees is a function of hooking cam 45. *To enable the user to hook lid latch 24 while lid 14 is still in an opened position*, and to then rotate lid actuator 22 to its final position wherein lid latch 24 completely tracks [within] cam 47 pulling lid 14 *to a closed and secured position.*" (Appellant's specification, paragraph 0039) (emphasis added).

Thus, as defined in Appellant's specification, an "opened position" includes a position in which the lid is not fully closed, but is within reach of the hooking cam 45 which then hooks lid latch 24 to track the lid to "a closed and secured position." (Appellant's specification, paragraph 0039). Moreover, common sense would indicate that the lid can be in one closed position or in any of a number of opened positions where the lid is not closed.

In contrast, none of the cited prior art references teach or suggest a lid coupler that engages the lid when the lid is still in a partially opened position. As Appellant has previously demonstrated, each and every one of the cited prior art references teach that the lid must be closed before a lid coupler can engage and secure the lid.

Dale Cheney

10/021,267

(1) Claims 27 and 53 are clearly patentable over Remington:

Claim 27:

Claim 27 recites:

A vehicle storage box, comprising:
a) a base structure;
b) a lid, pivotally connected to the base structure, shaped to enclose the base structure; and
c) a lid coupler comprising a first and second adjustable lid actuator and a first and second adjustable lid latch, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, the lid coupler having a first coupling position occurring when the lid is in an opened position;
d) *the lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position* such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator while the lid is pulled down; and
e) the first and second lid actuators being coupled together by a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable for simultaneous operation of the first and second lid actuators.
(emphasis added).

In contrast, Remington does not teach or suggest the claimed hooking cam that engages the lid latch while the lid is in an opened position. Remington teaches a latching system for luggage. As best seen in Fig. 3 of Remington, the lid latch (42) cannot be engaged by cam (38) unless the lid is in a closed position.

In the recent final Office Action, the Examiner states that "Remington teaches the hook portion at 38, portion 42 can be positioned to be engaged with distal portion hook portion 38 so that the lid is slightly closed similar to that of appellant." (Action of 7/19/06, p. 5). However, the Action appears to be misreading Remington.

Remington clearly states that the lid of the luggage is closed before the latches are engaged. "The latches have hook portions 38 and 40 adapted to engage posts 42 of the respective hasps. The lock and actuator assembly 20 includes a manual actuator 44 for effecting swiveling

Dale Cheney

10/021,267

movement of latch 34 (and through the drive mechanism corresponding movement of latch 36) and a combination lock 46 for locking the actuator and latches in position when the case is closed." (Remington, col. 4, lines 7-14). Moreover, one of skill in the art looking at Fig. 3 of Remington can clearly see that the lid must be fully closed before the hook portions (38) can engage the posts (42). If the lid were in anything other than a fully closed position, the crook of the hook (38) would not engage the post (42).

Remington, and the other prior art references of record, fail to teach or suggest the claimed "lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position." (Emphasis added). Moreover, the final Office Action utterly fails to indicate credibly how or where such subject matter is taught by the cited prior art, particularly Remington.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 27 and its dependent claims based on Remington should not be sustained.

Claim 53:

Independent claim 53 similarly recites:

A vehicle storage box, comprising:
a base structure;
a lid, pivotally connected to the base structure; and
a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.*
(emphasis added).

Dale Cheney

10/021,267

As demonstrated above, Remington does not teach or suggest a "lid coupler having a *first coupling position in which the lid coupler engages the lid* when the lid is in an opened position." (emphasis added). For at least this reason, the rejection of claim 53 based on Remington should also be reconsidered and withdrawn.

(2) Claim 35 is clearly patentable over Saunders:

Claim 35 recites.

A storage box for use with vehicles comprising:

- a) a base structure;
 - b) a lid, pivotally connected to the base structure, shaped to enclose a portion of the base structure; and
 - c) lid coupling means, connected to the lid and the base structure, for releasably coupling the lid to the base structure, and *having a first coupling position occurring when the lid is in an opened position*; and
 - d) the lid coupling means including a lid latch coupled to the lid, and means, rotatably coupled to the base structure, *for engaging and latching the lid latch while in the first coupling position*; and
 - e) the means for engaging and latching the lid latch including a hooking cam for facilitating closing and securing the lid to the base structure, *the hooking cam on a lid actuator engages the lid latch while the lid is in an opened position* such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam; *wherein the lid actuator rotates substantially 180 degrees* along the hooking cam such that the lid latch is forced through cam action motion.
- (emphasis added).

As noted above, the prior art does not teach or suggest a lid coupled means comprising a hooking cam that engages a lid latch while the lid is still in an opened position. In this regard, Saunders teaches a "shipping can" with a latch (11) that includes an "eccentric portion" (14) that engages a "lug" (10) of the lid (6). However, as is perfectly clear from Saunders Figs. 1 and 3, the latch (11, 14) cannot engage the lug (10) unless the lid (6) is closed. Consequently, Saunders,

Dale Cheney

10/021,267

like Remington above, fails to teach or suggest the claimed hooking cam on a lid actuator that "engages the lid latch while the lid is in an opened position."

Additionally, claim 35 recites that the lid actuator rotates substantially 180 degrees to move the hooking cam. According to the Office Action, "it is submitted that the curve portion 14 is about 180 degrees. Thus portion 10 can travel 180 degrees as claimed, depending on the rotating closing." (Action of 2/22/06, p. 2). This is clearly incorrect.

Firstly, lug (10) is part of the lid (6) and does not move except with opening of the lid (6). Latch (11) rotates to move the eccentric portion (14) around the lug (10) to seal the lid (6). However, the latch (11) does not rotate 180 degrees. Rather, the lid (6) is released if the latch (11) is move only 90 degrees as is evident from Saunders' Fig. 3. Moreover, the lip (9) of the lid (6) will prevent the latch (11) from moving a full 180 degrees.

Thus, with regard to claim 35, Saunders does not teach or suggest the claimed hooking cam that engages the lid latch while the lid is in an opened position and also does not teach or suggest the claimed lid actuator that rotates substantially 180 degrees. Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claims 35 and 36 based on Saunders should not be sustained.

Dale Cheney

10/021,267

(3) Claim 53 is clearly patentable over Howe, Wilkirson or Luce:

RECEIVED
CENTRAL FAX CENTER

MAY 22 2007

Again, independent claim 53 recites:

A vehicle storage box, comprising:
a base structure;
a lid, pivotally connected to the base structure; and
a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.*
(emphasis added).

In contrast, Howe, Wilkirson and Luce, like all the other prior art references of record fail to teach or suggest the claimed lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position, as recited in claim 53.

Looking at Howe, it is perfectly clear from Fig. 2 of Howe, the latch C cannot engage unless the lid of the box is in a fully closed position. Wilkirson teaches a casket sealing system. As seen in Wilkirson's Fig. 3, the casket lid must be closed prior to engagement of the latches (50). Please refer also to Wilkirson's Fig. 13. Luce teaches a locking system for a trunk. As seen in Luce's Figs. 6 and 7, the lid of the trunk must be closed before the latches for the lid are engaged.

Thus, as stated before, none of the prior art reference cited teach or suggest the claimed lid coupler having a first coupling position that occurs when the lid is still in an opened position. Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 53 based on Howe, Wilkirson or Luce should not be sustained.

Dale Cheney

10/021,267

(4) Claims 35, 43 and 53 are clearly patentable over Grove:

Claim 35:

As noted above, claim 35 recites:

A storage box for use with vehicles comprising:

- a) a base structure;
- b) a lid, pivotally connected to the base structure, shaped to enclose a portion of the base structure; and
- c) lid coupling means, connected to the lid and the base structure, for releasably coupling the lid to the base structure, and *having a first coupling position occurring when the lid is in an opened position; and*
- d) the lid coupling means including a lid latch coupled to the lid, and means, rotatably coupled to the base structure, *for engaging and latching the lid latch while in the first coupling position; and*
- e) the means for engaging and latching the lid latch including a hooking cam for facilitating closing and securing the lid to the base structure, *the hooking cam on a lid actuator engages the lid latch while the lid is in an opened position* such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam; *wherein the lid actuator rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion.*

(emphasis added).

As above, Grove does not teach or suggest the claimed lid coupling means having a first coupling position occurring when the lid is in an opened position. As seen in Grove's Fig. 3, the lid would have to be closed before the lower section (B²) can be rotated downward to the position shown in Fig. 1 to engage the upper section (B') and secure the lid of the box. Thus, Grove, like all the other prior art references cited fails to each or suggest the claimed hooking cam that engages the lid latch while the lid is in an opened position.

Additionally, as noted above, claim 35 recites "the lid actuator rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion." In

Dale Cheney

10/021,267

contrast, Grove does not teach or suggest a hooking cam that forces a lid latch through a cam action motion. Rather, in Grove, the upper section (B') is moved into the bends (b³) of the lower section (B²) and retained there when the lower section (B²) is rotated downward. Thus, Grove does not teach or suggest the claimed lid actuator that rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion.

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 35 based on Grove should not be sustained.

Claim 43:

Claim 43 recites:

A vehicle storage box, comprising:

- a) a base structure;
 - b) a lid, pivotally connected to the base structure, shaped to enclose the base structure; and
 - c) a lid coupler, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, *the lid coupler having a first coupling position occurring when the lid is in an opened position*, the lid coupler including an adjustable lid actuator and an adjustable lid latch, *each rotatable in a common plane substantially parallel to a front of the base structure.*
- (emphasis added).

As demonstrated above, Grove does not appear to teach or suggest the claimed lid coupler having a first coupling position occurring when the lid is in an opened position. *Moreover*, Grove clearly does not teach or suggest a lid actuator and lid latch "each rotatable in a common

Dale Cheney

10/021,267

plane substantially parallel to a front of the base structure." To the contrary, the elements of Grove's latch rotate in planes that are perpendicular to the front of the box structure. This is seen clearly in Fig. 3. Consequently, Grove does not teach or suggest, and actually teaches away from, the claim lid actuator and lid latch "each rotatable in a common plane substantially parallel to a front of the base structure."

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 43 based on Grove should not be sustained.

Claim 53:

Independent claim 53 recites:

A vehicle storage box, comprising:
a base structure;
a lid, pivotally connected to the base structure; and
a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.*
(emphasis added).

As demonstrated above, Grove does not appear to teach or suggest the claimed lid coupler having a first coupling position occurring when the lid is in an opened position. Moreover, Grove does not teach or suggest a "first and second adjustable actuator" and a "first and second adjustable lid latch," as claimed. To the contrary, Grove merely teaches a single upper section (B') cooperating with a single lower section (B²) to latch the box lid. Grove's system does not

Dale Cheney

10/021,267

including first and second actuators or first and second lid latches that together form a lid coupled that couples in a first coupling position when the lid is still in an opened position.

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 53 based on Grove should not be sustained.

(5) Claim 49 is patentable over Grove and Howe:

This ground of rejection is respectfully traversed for at least the same reasons given above.

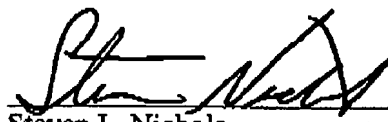
Dale Cheney

10/021,267

In view of the foregoing, it is submitted that the final rejection of the pending claims is improper and should not be sustained. Therefore, a reversal of the Rejection of July 19, 2006 is respectfully requested.

Respectfully submitted,

DATE: May 22, 2007

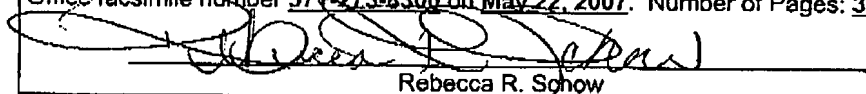


Steven L. Nichols
Registration No. 40,326

Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095
(801) 572-8066
(801) 572-7666 (fax)

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the Patent & Trademark Office facsimile number 574-273-8300 on May 22, 2007. Number of Pages: 36


Rebecca R. Schow

Dale Cheney

10/021,267

VIII. CLAIMS APPENDIXRECEIVED
CENTRAL FAX CENTER

MAY 22 2007

1-26. (canceled).

27. (previously presented) A vehicle storage box, comprising:

a) a base structure;

b) a lid, pivotally connected to the base structure, shaped to enclose the base structure;

and

c) a lid coupler comprising a first and second adjustable lid actuator and a first and second adjustable lid latch, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, the lid coupler having a first coupling position occurring when the lid is in an opened position;

d) the lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator while the lid is pulled down; and

e) the first and second lid actuators being coupled together by a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable for simultaneous operation of the first and second lid actuators.

28. (previously presented) The storage box of claim 27, wherein the base structure is configured to attach to a vehicle, and has a length sized to fit between side walls of a truck bed.

Dale Cheney

10/021,267

29. (previously presented) The storage box of claim 27, wherein the lid actuator rotates substantially 180 degrees such that the lid latch is forced through cam action motion.

30. (previously presented) The storage box of claim 27, wherein the hooking cam comprises a hook, a cam, and a notch, wherein the notch is shaped and positioned to receive and retain the lid actuator when the lid is in a closed and secured position.

31-33. (canceled).

34. (previously presented) The vehicle storage box of claim 27, wherein the first and second lid latches are substantially L-shaped members having a latching point for engaging respectively the first and second lid actuators.

35. (previously presented) A storage box for use with vehicles comprising:

a) a base structure;

b) a lid, pivotally connected to the base structure, shaped to enclose a portion of the base structure; and

c) lid coupling means, connected to the lid and the base structure, for releasably coupling the lid to the base structure, and having a first coupling position occurring when the lid is in an opened position; and

Dale Cheney

10/021,267

d) the lid coupling means including a lid latch coupled to the lid, and means, rotatably coupled to the base structure, for engaging and latching the lid latch while in the first coupling position; and

e) the means for engaging and latching the lid latch including a hooking cam for facilitating closing and securing the lid to the base structure, the hooking cam on a lid actuator engages the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam; wherein the lid actuator rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion.

36. (previously presented) The storage box of claim 35, wherein the base structure is configured to attach to a vehicle, and has a length sized to fit between side walls of a truck bed.

37. (canceled).

38. (previously presented) The storage box of claim 35, wherein the hooking cam comprises a hook, a cam, and a notch, wherein the notch is shaped and positioned to receive and retain the lid actuator when the lid is in a closed and secured position.

Dale Cheney

10/021,267

39. (previously presented) The storage box of claim 35, wherein the lid coupling means comprises a first and second adjustable lid actuator and a first and second adjustable lid latch.

40. (previously presented) The storage box of claim 39, wherein the first and second lid actuators are coupled together by a lid actuator connector for simultaneous operation of the first and second lid actuators.

41. (previously presented) The storage box of claim 40, wherein the lid actuator connector comprises a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable.

42. (previously presented) The storage box of claim 39, wherein the first and second lid latches are substantially L-shaped members having a latching point for engaging respectively the first and second lid actuators.

43. (previously presented) A vehicle storage box, comprising:

a) a base structure;

b) a lid, pivotally connected to the base structure, shaped to enclose the base structure; and

c) a lid coupler, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, the lid coupler having a first coupling position occurring when the

Dale Cheney

10/021,267

lid is in an opened position, the lid coupler including an adjustable lid actuator and an adjustable lid latch, each rotatable in a common plane substantially parallel to a front of the base structure.

44. (previously presented) The storage box of claim 43, wherein the base structure is configured to attach to a vehicle, and has a length sized to fit between side walls of a truck bed.

45. (previously presented) The storage box of claim 43, wherein

- a) the lid coupler includes a lid latch and a lid actuator; and
- b) the lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator while the lid is pulled down.

46. (previously presented) The storage box of claim 45, wherein the lid actuator rotates substantially 180 degrees such that the lid latch is forced through cam action motion.

47. (previously presented) The storage box of claim 43, wherein

- a) the lid coupler includes: 1) a lid latch coupled to the lid, and 2) a lid actuator, rotatably coupled to the base structure, to engage and latch the lid latch while in the first coupling position; and

- b) the lid actuator including a hooking cam to facilitate closing and securing the lid to the base structure, the hooking cam on the lid actuator engaging the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks

Dale Cheney

10/021,267

along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam, the lid actuator rotating substantially 180 degrees such that the lid latch is forced through cam action motion.

48. (previously presented) The storage box of claim 47, wherein the hooking cam comprises a hook, a cam, and a notch, wherein the notch is shaped and positioned to receive and retain the lid actuator when the lid is in a closed and secured position.

49. (previously presented) The vehicle storage box of claim 43, wherein the lid coupler comprises a first and second adjustable lid actuator and a first and second adjustable lid latch.

50. (previously presented) The vehicle storage box of claim 49, wherein the first and second lid actuators are coupled together by a lid actuator connector for simultaneous operation of the first and second lid actuators.

51. (previously presented) The vehicle storage box of claim 50, wherein the lid actuator connector comprises a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable.

Dale Cheney

10/021,267

52. (previously presented) The vehicle storage box of claim 50, wherein the first and second lid latches are substantially L-shaped members having a latching point for engaging respectively the first and second lid actuators.

53. (previously presented) A vehicle storage box, comprising:

- a base structure;
- a lid, pivotally connected to the base structure; and
- a lid coupler configured to releasably couple the lid to the base structure, the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.

Dale Cheney

10/021,267

IX. Evidence Appendix

None

Dale Cheney

10/021,267

X. Related Proceedings Appendix

None

Dale Cheney

10/021,267

XI. Certificate of Service

None